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LLC f/k/a Dalsa Barbour LLC

The Honorable Karen A. Overstreet
Chapter 11
Ex Parte

UNITED STATES BANKRUPTCY COURT
WESTERN DISTRICT OF WASHINGTON AT SEATTLE

In Re)	
)	
CLI HOLDINGS, INC. dba ALYDIAN,)	CASE NO. 13-19746-KAO
)	
Debtor.)	<i>EX PARTE</i> MOTION TO SHORTEN
)	TIME FOR HEARING ON MOTION TO
)	COMPEL
)	

COMES NOW Lane Powell PC ("Lane Powell"), and respectfully requests that the Court enter an *ex parte* order shortening the time for notice of hearing to consider Bitvestment Partners LLC's ("Bitvestment's") Motion to Compel filed on December 26, 2013, pursuant to Local Bankruptcy Rules 9013-1 and Fed. R. Bankr. P. and 9006(c). This Motion to Shorten Time is supported by the Declaration of Tereza Simonyan ("Simonyan Decl."), filed jointly herewith.

In support of this Motion for Shortened Time, Lane Powell states as follows:

On December 26, 2013, Lane Powell contacted the Debtor's counsel and the US Trustee's attorney, via email to provide notice of Lane Powell's intent to shorten time on the Motion in accordance with Local Bankruptcy Rule 9013-1(d)(3).

Fed. R. Bankr. P. 2002 and Local Bankruptcy Rule 2002-1 require, unless the Court orders otherwise, "all motion papers [to] be served at least 21 days before the return date,"

EX PARTE MOTION TO SHORTEN TIME
FOR HEARING ON MOTION TO COMPEL - 1

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1 and “when there is a right or requirement to act *** within a prescribed period after service
2 and that service is made by mail ***.” Fed. R. Bankr. P. 9006(f) requires that three (3) days
3 be added to the prescribed period. Fed. R. Bankr. P. 9006(c)(1), however, authorizes the
4 Court, for good cause shown, to reduce notice periods.

5 Bitvestment has made extensive attempts to obtain information from Debtor
6 regarding Debtor’s ownership of Bitcoins, pre- and post-petition transfers of Bitcoins,
7 operations of the Debtor, claims against the Debtor’s estate, and the general information
8 about the administration of the estate. Bitvestment’s discovery attempts included informal
9 requests and a Rule 9016 subpoena issued pursuant to a Rule 2004 order entered by the
10 Court. To date, the Debtor has failed to provide any of the documents requested by
11 Bitvestment and has claimed unavailability to submit to a Rule 2004 examination until
12 January 13, 2014.¹

13 On December 24, 2014 the Debtor filed a motion seeking approval of sale procedures
14 for the sale of the Debtor’s Bitcoin mining rigs (the “Sale Motion”). Per Debtor’s request,
15 the Court shortened the time of the notice for the hearing on the Sale Motion, which is
16 currently set for January 10, 2014, with any responses due on January 8, 2014. Debtor’s
17 refusal to provide the requested documents and submit to a Rule 2004 examination in
18 advance of the hearing on the Sale Motion is highly prejudicial to Bitvestment in that it
19 hinders Bitvestment’s ability to investigate the issues raised in the Debtor’s Sale Motion and
20 submit a meaningful response before the January 8, 2014 deadline.

21 Specifically, in order to prevail on a sale motion pursuant to 11 U.S.C. §363, the
22 Debtor must show, among other things, that its decision to sell the Bitcoin mining rigs is
23 supported by a sound business judgment. The Sale Motion is premised on the idea that the
24 Debtor does not produce sufficient revenue by mining Bitcoins to service its creditors and the
25

26 ¹ A detailed account of Bitvestment’s failed discovery attempts is set forth in Bitvestment’s Motion to Compel
filed simultaneously herewith.

1 sale of the Bitcoin mining rigs on the terms set forth in the Sale Motion is in the best interest
2 of the estate and the creditors. However, Mr. Vessenes's testimony during the 341 meeting
3 of creditors coupled with the Debtor's Schedules I and J suggest that the Debtor does and has
4 the ability to continue to run a highly profitable business, with monthly gross revenue of
5 approximately \$2 million and average monthly operating expenses of \$600,000. Production
6 of the documents requested by Bitvestment and a Rule 2004 examination of Mr. Vessenes is
7 necessary to explain the "sound business judgment" upon which the Sale Motion is premised.
8 Mr. Vessenes's testimony is similarly necessary to help decipher the incomprehensible and
9 vague disclosures in the Debtor's November operating report. (Dkt. No. #58). Also critical
10 to Bitvestment's ability to respond to the Sale Motion are documents and testimony
11 pertaining the Debtor's Bitcoin ownership, pre- and post-petition transfers of Bitcoins worth
12 millions of dollars, and Debtor's outstanding obligations to its shareholders.

13 The Court's order compelling discovery responses and Debtor's Rule 2004
14 examination in advance of the hearing on the Sale Motion would insure Bitvestment's ability
15 to investigate the issues raised by the Debtor's Sale Motion and submit a meaningful
16 response, allowing the Court to make a fully-informed decision on the Sale Motion at the
17 time of the hearing.

18 Based on the foregoing, Lane Powell respectfully requests that its Motion to Shorten
19 Time be approved and the hearing on the Motion be set for **Monday, December 30, 2014 at**
20 **11:00 a.m.**, or any such other date and time prior to January 8, 2014 that the Court finds
21 appropriate.

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EX PARTE MOTION TO SHORTEN TIME
FOR HEARING ON MOTION TO COMPEL - 3

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A proposed form of Order is attached hereto as **Exhibit A.**

DATED: December 26, 2013.

LANE POWELL PC

By /s/Tereza Simonyan

Tereza Simonyan, WSBA No. 41741
Attorneys for Bitvestment Partners LLC

EX PARTE MOTION TO SHORTEN TIME
FOR HEARING ON MOTION TO COMPEL - 4

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